

MOTION BY SUPERVISORS SHEILA KUEHL AND
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**Opposition to HUD’s Proposed Implementation of the Fair Housing Act’s
Disparate Impact Standard**

In 2015, President Obama instructed the U.S. Department of Housing and Urban Development (HUD) to draft federal guidelines known as the Affirmatively Furthering Fair Housing Final Rule. The rule was intended to comply with an unmet mandate included in the Fair Housing Act of 1968, requiring communities to address decades of discriminatory housing and lending practices by incorporating practices and policies that actively create integrated communities. In January 2018, the Trump administration suspended the rule, effectively undoing the significant strides taken to build integrated communities.

As a response to the administration’s suspension, California Governor Brown signed AB-686 (Bill), Affirmatively Furthering Fair Housing, into law in September 2018, reinforcing the State’s commitment to creating fair housing opportunities and inclusive communities for all California residents. The Bill supports President Obama’s final rule by requiring public agencies to administer their programs and activities relating to

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housing and community development in a manner that affirmatively furthers fair housing, and to not take any action that is materially inconsistent with the obligation.

In addition, during this past year, the Board of Supervisors (Board) has taken several steps to affirmatively further fair housing across Los Angeles County, including directing the Los Angeles County Development Authority (LACDA) to develop a robust plan to affirmatively further fair housing that goes beyond what is required by federal law to create inclusive and integrated communities throughout the County.

In an effort to combat decades of discriminatory practices and create truly integrated communities throughout the County, the Board directed the Chief Executive Officer (CEO) to allocate an additional \$5,000,000, which will be leveraged by other funding sources, to specifically support LACDA's recommended actions that were included in their proposed plan. These actions include:

1. Developing source-of-income discrimination protections that expand the prohibition of discrimination to rental subsidies, including but not limited to, Section 8 vouchers;
2. Creating a partnership between LACDA and landlords to incentivize Section 8 program participation;
3. Expanding current homeownership programs for residents with limited means, and stabilization subsidy programs that can offer short-term and long-term rental assistance to at-risk or displaced families;
4. Engaging in an in-depth gentrification study that will provide a broader interpretation of displacement and neighborhood changes and develop the capacity to identify areas at risk of such occurrences;

5. Expansion of an acquisition fund to acquire properties in gentrifying neighborhoods to alleviate the displacement of residents with limited means;
6. Enhancing funding for fair housing investigations and enforcement; and
7. Supporting the related Los Angeles Homeless Services Authority Report and Recommendations of the Ad Hoc Committee on Black People Experiencing Homelessness that examined factors contributing to the overrepresentation of Black people among the population experiencing homelessness, identified opportunities to increase racial equity within the homeless service delivery system, and developed recommendations to more effectively meet the needs of Black people experiencing homelessness.

Furthermore, ongoing activities designed to promote fair housing for the residents of the unincorporated areas of the County and all Participating Cities in the County's Community Development Block Grant Program include conducting a program of informational, educational, counseling, and investigative services. These fair housing services provided in the County address a wide variety of landlord-tenant issues: evictions, illegal entries, harassment, refusals to rent, pets, lockouts, substandard conditions, and repairs. These issues are resolved through mediation, referrals to other agencies, and litigation.

Despite these State and local efforts, on the heels of the 50th anniversary of the Fair Housing Act (Act), the federal government, through HUD, has released a proposed rule entitled, "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard." This proposed rule will make it difficult, if not impossible, for plaintiffs to

successfully bring a disparate impact claim under the Act by drastically heightening the burden plaintiffs must meet to challenge policies and practices. This is anticipated to significantly harm families with children, survivors of domestic violence, people with disabilities, and people of color. It simultaneously provides significant defenses for lenders, insurance companies and housing providers when they discriminate.

The proposed rule greatly weakens the Fair Housing Act and will result in more segregated communities, discrimination, homelessness, and division among the people of our Nation.

WE, THEREFORE, MOVE that the Board of Supervisors send a five-signature letter to the U.S. Department of Housing and Urban Development opposing its proposed rule entitled, “HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard,” as it would adversely affect the establishment and advancement of integrated communities across Los Angeles County and the nation.

S:RS/Opposition to HUD’s Proposed Implementation of the Fair Housing Act’s Disparate Impact Standard